

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ABSTRAX, INC.,

Plaintiff(s),

v.

SUN MICROSYSTEMS, INC.,

Defendant(s).

No. C 09-5243 PJH

PRETRIAL ORDER NO. 1

At the case management conference held in this matter on April 8, 2010, following transfer from the Eastern District of Texas, the court ordered as follows:


1. The claim construction order and any other orders entered in the E.D. Texas will continue to apply to this litigation, except the previously approved protective order, which must be revised by the parties to comply with this court's local rules and with 9th Circuit precedent as to standard and procedure for obtaining leave to file any document under seal. The revised stipulated protective order may be filed at any time, but the previously approved order is not valid in this district going forward.
2. All motions filed in the E.D. Texas, but not decided before transfer are **TERMINATED (Docket Nos. 77, 79, 105, 106, 107, 123, 125, 130)**. These motions shall be revised to comply with this court's local rules in terms of format and with 9th Circuit precedent, to the extent applicable in patent cases.
3. The court will hear the discovery-related motions first. Plaintiff's motion to compel discovery regarding the CDT system (Docket No. 79) and defendant's motion for a protective order regarding this discovery (Docket No. 77) shall be

revised and filed by May 10, 2010. The parties may stipulate to a briefing schedule for the filing of opposition and reply briefs. The motions will be decided on the papers without a hearing unless the court notifies the parties that one is necessary.

4. In the court's ruling on these discovery-related motions, the court will indicate a briefing and hearing schedule for the remaining motions which all need to be revised. As only one dispositive motion is permitted per party, defendant will need to combine its two summary judgment motions (Docket Nos. 123 and 130) into one, and its three *Daubert* motions (Docket Nos. 105, 106, 107) into one.
5. The parties are advised that the court will not approve the filing of the entirety of any brief under seal and that they should consult this court's standing order for sealed and confidential documents, and the 9th Circuit authority referenced therein, and Civil Local Rule 79-5, before filing any motion to seal in the future.
6. This matter is referred to the ADR program for assignment to mediation, which should take place within 30 days of the court's ruling on the discovery-related motions.

IT IS SO ORDERED.

Dated: April 9, 2010



PHYLLIS J. HAMILTON
United States District Judge